

GRAIN WAREHOUSE ACT:

Public warehouseman in Missouri who has published schedule of rates for storage of grains under Sec. 24, Laws 1941, p. 373, and is operating under a warehouse license in this state, cannot discriminate between customers and cannot deviate from published schedule as to period of free time or any other charge. Mill operating in Missouri which is not licensed can accept grain for storage if it falls within the definition of "local public warehouse."

March 19, 1948

Mr. A. E. McInerney  
Grain Warehouse Commissioner  
1108 Board of Trade Building  
Kansas City, Missouri

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Dear Sir:

This is in reply to your letter of recent date requesting an official opinion of this department on two questions asked by Mr. Frank A. Theis, Chairman of the Elevator Committee for the Board of Trade of Kansas City. The questions are:

"1 - Whether or not a public warehouseman, as defined in the Missouri Revised Statutes, who has published a schedule of charges under Section 14685.24, and is operating under a warehousing license of your Department, can, under Section 14685.22 of the Missouri Revised Statutes, discriminate between the storage customers, and deviate from the schedule of charges outlined in his published tariff as to the period of free time, or other warehouse charges.

"2 - Whether or not a mill operating in the state of Missouri, which is not licensed as a warehouse with your Department, can accept grain for storage."

Section 24, Laws of Missouri, 1941, page 373, provides, in substance, for the maximum charge for storing and handling of grain in terminal public houses and local public warehouses. Such section further provides that the owner, operator or manager of any terminal or local public warehouse in the state is required, during the first week in June, or upon receipt of his license, to publish a table or schedule of rates for the storage of grain in his warehouse during his licensed period. The warehouseman may publish in his table or schedule of rates any charges he desires to make, so long as they do not exceed the maximum set out in such section.

Section 22, Laws of Missouri, 1941, page 373, provides that every terminal public warehouseman shall receive for storage any grain suitable for warehousing, to the capacity of his warehouse available for public storage, not making any discrimination among the persons desiring to avail themselves of the warehouse facilities.

Section 23, Laws of Missouri, 1941, page 373, provides that every local public warehouseman subject to the provisions of the Missouri Grain Warehouse Act shall receive for storage or shipment, so far as available capacity of his warehouse shall permit, all grains suitable for storage, without discrimination of any kind.

It is to be noted that Section 24, supra, does not provide that the warehouseman shall publish a table or schedule of maximum rates for the storage of grains in his warehouse during his licensed period, but that he shall publish a table or schedule of rates which are to be charged by him during his licensed period, with the restriction that such rates shall not be in excess of the maximum provided by the statute. Therefore, we believe it to be clear that the rates published by the warehouseman must be charged by the warehouseman on all grains stored in his warehouse.

Sections 22 and 23, cited supra, providing that there shall be no discrimination in either terminal or local public warehouses, prevent discrimination not only as to the persons whose grain is accepted for storage in the warehouse, but also in the charges that may be made for the storage of grains in such warehouses.

Therefore, a public warehouseman who has published a schedule of charges under Section 24 of the Act, and is operating under a warehouseman's license of the State of Missouri, cannot discriminate between the charges he makes for the storage of grain, and cannot deviate from the schedule of charges which he has caused to be published with regard to the period of free storage or any other warehouse charge.

Section 17, Laws of Missouri, 1941, page 373, defines "terminal public warehouse" and contains a proviso that any such warehouse not in excess of one hundred fifty thousand bushels measured capacity shall be deemed a local public warehouse within the meaning of the Grain Warehouse Act unless the operator makes application for a license as a terminal public warehouse and guarantees the expense of weighing and inspection therein.

Mr. A. E. McInerney

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Section 18, Laws of Missouri, 1941, page 373, defines "local public warehouse."

Section 19, Laws of Missouri, 1941, page 373, provides that no person, firm, corporation or association shall engage in business as a public warehouseman until a license for engaging in such business has been issued by the Commissioner, with the further proviso that the requirements of Section 19 are optional with local public warehouses as defined in Section 18.

Therefore, if a mill operating in the State of Missouri comes within the definition of "local public warehouse," and such mill has not requested that it be covered by the provisions of Section 19 of the Act, such mill can accept grain for storage without being licensed by the Commissioner.

#### CONCLUSION

It is the opinion of this department that a public warehouseman in this state who has published a schedule of charges under Section 24 of the Grain Warehouse Act, and is operating under a warehousing license of the Grain Warehouse Department of this state, cannot discriminate between storage customers, and cannot make any charges other than those set forth in the published schedule of rates, and cannot make any discrimination among his customers as to free storage time or any other warehouse charges.

It is further the opinion of this department that a mill operating in this state which comes within the definition of "local public warehouse" as defined in Section 18 of the Grain Warehouse Act, and which has not voluntarily come within the provisions of Section 19 of the Act, can accept grain for storage without being licensed by the Commissioner.

Respectfully submitted,

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Assistant Attorney General

APPROVED:

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